रजिस्ट्री सं. डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 98] नई दिल्ली, शुक्रवार, दिसम्बर 27, 1985/पौष 6, 1907
No. 98] NEW DELHI, FRIDAY, DECEMBER 27, 1985/PAUSA 6, 1907

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह असग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 27th December, 1985/*Pausa* 6, 1907 (*Saka*)

The following Act of Parliament received the assent of the President on the 27th December, 1985, and is hereby published for general information:—

THE CUSTOMS (AMENDMENT) ACT, 1985

No. 80 OF 1985

[*27th December,* 1985.]

An Act further to amend the Customs Act, 1962.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Customs (Amendment) Act, 1985.

52 of 1962

Amendment of section 20.

2. In section 20 of the Customs Act, 1962 (hereinafter referred to as the principal Act), in sub-section (*1*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that if the Central Government is satisfied that it is necessary in the public interest so to do, it may, by order in each case, extend the aforesaid period of three years for such further period as it may deem fit.".

Amendment of section 28.

3. In section 28 of the principal Act,—

(*a*) in sub-section (*1*), in the proviso, for the words "as if", the words 'as if for the words "proper officer", the words "Collector of Customs", and' shall be substituted;

(*b*) in sub-section (*2*), after the words "Assistant Collector of Customs", the words "or the Collector of Customs, as the case may be" shall be inserted.

Amendment of section 48.

4. In section 48 of the principal Act, for the words "within two months", the words "within forty-five days" shall be substituted.

Amendment of section 61.

5. In section 61 of the principal Act, in sub-section (*1*), for clause (*a*), the following shall be substituted, namely:—

'(*a*) in the case of—

(*i*) non-consumable stores; or

(*ii*) goods intended for supply to a foreign diplomatic mission; or

(*iii*) goods intended for use in any manufacturing process or other operations in accordance with the provisions of section 65; or

(*iv*) goods intended for use in any hundred per cent. export-oriented undertaking; or

(*v*) goods which the Central Government may, if it is satisfied that it is necessary or expedient so to do, by notification in the Official Gazette, specify for the purposes of this clause,

till the expiry of one year.

Explanation.—For the purposes of sub-clause (*iv*), "hundred per cent. export-oriented undertaking" has the same meaning as in *Explanation 2* to sub-section (*1*) of section 3 of the Central Excises and Salt Act, 1944;'. 1 of 1944.

Amendment of section 74.

6. In section 74 of the principal Act, in sub-section (*1*), in the opening paragraph, for the portion beginning with the words "any duty has been paid" and ending with the words "be re-paid as drawback, if—", the following shall be substituted, namely:—

"any duty has been paid on importation,—

(*i*) are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or

(*ii*) are to be exported as baggage and the owner of such baggage, for the purpose of clearing it, makes a declaration of its contents to the proper officer under section 77 (which declaration shall be deemed to be an entry for export for the purposes of this section) and such officer makes an order permitting clearance of the goods for exportation, or

(*iii*) are entered for export by post under section 82 and the proper officer makes an order permitting clearance of the goods for exportation,

ninety-eight per cent. of such duty shall, except as otherwise hereinafter provided, be re-paid as drawback, if—".

Amendment of section 75.

7. In section 75 of the principal Act, in sub-section (*1*), after the words "proper officer", the words "or being goods entered for export by post under section 82 and in respect of which an order permitting clearance for exportation has been made by the proper officer" shall be inserted and shall be deemed to have been inserted with effect from the 13th day of May, 1983.

Amendment of section 110.

8. In section 110 of the principal Act, after sub-section (*1*), the following sub-sections shall be inserted, namely:—

"(*1A*) The Central Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification in the Official Gazette, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (*1*), be disposed of by the proper officer in such manner as the Central Government may, from time to time, determine after following the procedure hereinafter specified.

(*1B*) Where any goods, being goods specified under sub-section (*1A*), have been seized by a proper officer under sub-section (*1*), he shall prepare an inventory of such goods containing such details relating to their description, quality, quantity, mark, numbers, country of origin and other particulars as the proper officer may consider relevant to the identity of the goods in any proceeding under this Act and shall make an application to a Magistrate for the purpose of—

(*a*) certifying the correctness of the inventory so prepared; or

(*b*) taking, in the presence of the Magistrate, photographs of such goods, and certifying such photographs as true; or

(*c*) allowing to draw representative samples of such goods, in the presence of the Magistrate, and certifying the correctness of any list of samples so drawn.

(*1C*) Where an application is made under sub-section (*1B*), the Magistrate shall, as soon as may be, allow the application.".

Amendment of section 125.

9. In section 125 of the principal Act,—

(*a*) in sub-section (*1*), after the words "the owner of the goods", the words "or, where such owner is not known, the person from whose possession or custody such goods have been seized," shall be inserted;

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Where any fine in lieu of confiscation of goods is imposed under sub-section (*1*), the owner of such goods or the person referred to in sub-section (*1*) shall, in addition, be liable to any duty and charges payable in respect of such goods.".

Amendment of section 129C.

10. In section 129C of the principal Act,—

(*a*) in sub-section (*3*), for the words "three members", the words "two members" shall be substituted;

(*b*) to sub-section (5), the following proviso shall be added, namely:—

"Provided that where the members of a Special Bench are equally divided, the point or points on which they differ shall be decided by the President.".

Amendment of section 139.

11. In section 139 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

'*Explanation.*—For the purposes of this section, "document" includes inventories, photographs and lists certified by a Magistrate under sub-section (*1C*) of section 110.'.

Insertion of new section 151A.

12. After section 151 of the principal Act, the following section shall be inserted, namely:—

Instructions to officers of customs.

"151A. The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of goods or with respect to the levy of duty thereon, issue such orders, instructions and directions to officers of customs as it may deem fit and such officers of customs and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any such officer of customs to make a particular assessment or to dispose of a particular case in a particular manner; or

(*b*) so as to interfere with the discretion of the Collector of Customs (Appeals) in the exercise of his appellate functions.".

Transfer of certain pending proceedings.

13. Every proceeding under the proviso to sub-section (*1*) of section 28 of the principal Act, which is pending immediately before the commencement of this Act before an Assistant Collector of Customs and any matter arising out of, or connected with, such proceeding and which is so pending, shall stand transferred on such commencement to the Collector of Customs who may proceed with such proceeding or matter from the stage at which it was on such commencement or from any earlier stage as he may deem fit:

Provided that any party to the proceeding or matter may demand that before proceeding further with the proceeding or matter, he may be re-heard.

Validation.

14. (*1*) Any drawback allowed under section 75 of the principal Act on goods exported by post during the period commencing on and from the 13th day of May, 1983 and ending with the date of commencement of this Act shall be deemed to have been validly allowed as if the provisions of the said section, as amended by section 7 of this Act, had been in force at all material times.

(2) Any person whose claim for drawback on goods exported by post under section 75 of the principal Act during the period commencing on and from the 13th day of May, 1983 and ending with the date of commencement of this Act was disallowed on the ground that the principal Act did not provide for any such allowance, may, within ninety days from such commencement, apply to the proper officer for reconsideration of the matter and such proper officer shall decide such claim as if the provisions of section 75 of the principal Act, as amended by section 7 of this Act, had been in force on the date on which such goods were so exported.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1985